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DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-804, A-412-801]

Ball Bearings and Parts Thereof From Japan and the United Kingdom: Notice of Reinstatement of Antidumping Duty Orders, Resumption of Administrative Reviews, and Advance Notification of Sunset Reviews

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On July 15, 2011, pursuant to a decision of the Court of International Trade (CIT) that affirmed the International Trade Commission's (ITC's) negative injury determinations on remand in the second sunset review of the antidumping duty orders on bearings from Japan and the United Kingdom, the Department of Commerce (the Department) revoked the *Orders*.¹ On May 16, 2013, the United States Court of Appeals for the Federal Circuit (Federal Circuit) reversed the CIT's decision and ordered the CIT to reinstate the ITC's affirmative material injury determinations.² Subsequently, on November 18, 2013, the CIT issued final judgment reinstating the ITC's affirmative injury determinations.³ Therefore, the Department is now reinstating the *Orders*. Additionally, the Department is resuming the administrative reviews of these orders for the periods May 1, 2009, through April 30, 2010, and May 1, 2010, through April 30, 2011.

EFFECTIVE DATE: November 29, 2013

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Minoo Hatten, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S.

¹ See *Antidumping Duty Orders: Ball Bearings, Cylindrical Roller Bearings, and Spherical Plain Bearings, and Parts Thereof From Japan*, 54 FR 20904 (May 15, 1989), and *Antidumping Duty Orders and Amendments to the Final Determinations of Sales at Less Than Fair Value: Ball Bearings, and Cylindrical Roller Bearings and Parts Thereof From the United Kingdom*, 54 FR 20910 (May 15, 1989) (collectively, *Orders*).

² *NSK Corp v. United States International Trade Commission*, 716 F.3d 1352 (Fed. Cir. 2013) (*NSK May 2013*).

³ *NSK Corp. v. United States International Trade Commission*, Court No. 06-334, Slip Op. 2013-143 (CIT November 18, 2013) (*NSK November 2013*).

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SUPPLEMENTARY INFORMATION:

Background

On May 15, 1989, the Department published the *Orders* in the *Federal Register*.⁴ Pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), the Department initiated and the ITC instituted the second sunset reviews of the *Orders* on June 1, 2005.⁵ As a result of its sunset reviews, the Department found that revocation of the *Orders* would be likely to lead to the continuation or recurrence of dumping and notified the ITC of the magnitude of the margins likely to prevail were the *Orders* to be revoked.⁶

On August 31, 2006, the ITC published its determination that, pursuant to section 751(c) of the Act, revocation of the *Orders*, among others, would be likely to lead to the continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.⁷ NSK Corporation, NSK Ltd., and NSK Europe Ltd. and JTEKT Corporation and Koyo Corporation of U.S.A. filed appeals of this determination with the CIT.

⁴ See *Orders*.

⁵ See *Initiation of Five-year ("Sunset") Reviews*, 70 FR 31423 (June 1, 2005), and *Certain Bearings From China, France, Germany, Italy, Japan, Singapore, and the United Kingdom*, 70 FR 31531 (June 1, 2005); see also 19 CFR 351.218.

⁶ See *Antifriction Bearings and Parts Thereof from France, Germany, Italy, and the United Kingdom; Five-Year Sunset Reviews of Antidumping Duty Orders; Final Results*, 70 FR 58183 (October 5, 2005), *Ball Bearings and Parts Thereof from Japan and Singapore; Five-year Sunset Reviews of Antidumping Duty Orders; Final Results*, 71 FR 26321 (May 4, 2006), and *Ball Bearings and Parts Thereof from Japan; Five-year Sunset Review of Antidumping Duty Order: Amended Final Results*, 71 FR 30378 (May 26, 2006).

⁷ See *Certain Bearings From China, France, Germany, Italy, Japan, Singapore, and the United Kingdom*, 71 FR 51850 (August 31, 2006), and ITC Publication 3876 (August 2006) entitled *Certain Bearings from China, France, Germany, Italy, Japan, Singapore, and the United Kingdom*, Investigation Nos. 731-TA-344, 391-A, 392-A and C, 393-A, 394-A, 396, and 399-A (*Second Review*).

In its third and fourth remand determinations,⁸ the ITC found that revocation of the *Orders* would not be likely to lead to the continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. On April 20, 2011, the CIT affirmed the ITC's fourth remand and entered judgment in the case.⁹ The CIT stayed the effect of its judgment temporarily but, lifted the stay on May 13, 2011.¹⁰ On May 17, 2011, the Federal Circuit issued a temporary stay of the judgment.¹¹

On June 17, 2011, in response to the CIT's entry of judgment in *NSK*, the Department published a notice of a court decision not in harmony with a Department determination, thereby suspending liquidation of all entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after July 11, 2005, that remained unliquidated, and not deemed liquidated, as of April 30, 2011.¹²

On July 6, 2011, the Federal Circuit's stay lifted.¹³ Therefore, pursuant to the CIT's judgment in *NSK*, the Department revoked the *Orders*.¹⁴ The CIT's *NSK* decision was appealed to the Federal Circuit.

On May 16, 2013, the Federal Circuit issued a decision reversing and vacating the CIT's decision in *NSK*, ordered the CIT to vacate the ITC's negative determination in the *Third Remand* and *Fourth Remand*, and ordered the CIT to reinstate the ITC's affirmative determination in ITC Publication 4131, *Ball Bearings and Parts thereof from Japan and the*

⁸ See ITC Publication 4194, *Ball Bearings and Parts thereof from Japan and the United Kingdom, Investigation Nos. 731-TA-394A and 399A (Second Review) (Third Remand)* (August 2010), and ITC Publication 4223, *Certain Ball Bearings and Parts Thereof from Japan and the United Kingdom, Investigation Nos. 394-A and 399-A (Second Review) (Fourth Remand)* (March 2011).

⁹ See *NSK v. United States*, 774 F. Supp. 2d 1296 (CIT 2011) (*NSK*).

¹⁰ See *NSK Corp. v. United States*, 774 F. Supp. 2d 1300 (CIT 2011).

¹¹ See *NSK Corp. v. United States*, 422 Fed. Appx. 885 (Fed. Cir. 2011)

¹² See *Ball Bearings and Parts Thereof From Japan and the United Kingdom: Notice of Court Decision Not in Harmony with Continuation of Antidumping Duty Orders*, 76 FR 35401 (June 17, 2011) (*Timken Notice*).

¹³ See *NSK v. United States*, 431 Fed. Appx. 910 (Fed. Cir. 2011).

¹⁴ See *Ball Bearings and Parts Thereof From Japan and the United Kingdom: Revocation of Antidumping Duty Orders*, 76 FR 41761 (July 15, 2011) (*Revocation Notice*).

United Kingdom, Investigation Nos. 731-TA-394A and 399A (Second Review) (Second Remand) (January 2010).¹⁵ On November 18, 2013, the CIT reinstated the ITC's affirmative determination.¹⁶

Therefore, pursuant to the CIT's November 18, 2013, order reinstating the ITC's affirmative material injury determination, the Department is reinstating the *Orders*.

Scope of the Orders

The products covered by the *Orders* are ball bearings and parts thereof. These products include all antifriction bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 3926.90.45, 4016.93.10, 4016.93.50, 6909.19.50.10, 8414.90.41.75, 8431.20.00, 8431.39.00.10, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.35, 8482.99.25.80, 8482.99.65.95, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.93.30, 8708.93.60.00, 8708.99.06, 8708.99.31.00, 8708.99.40.00, 8708.99.49.60, 8708.99.58, 8708.99.80.15, 8708.99.80.80, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, 8803.90.90, 8708.30.50.90, 8708.40.75.70, 8708.40.75.80, 8708.50.79.00, 8708.50.89.00, 8708.50.91.50, 8708.50.99.00, 8708.70.60.60, 8708.80.65.90, 8708.93.75.00, 8708.94.75, 8708.95.20.00, 8708.99.55.00, 8708.99.68, and 8708.99.81.80.

Although the HTSUS item numbers above are provided for convenience and customs purposes, the written descriptions of the scope of the *Orders* remain dispositive.

¹⁵ See *NSK May 2013*.

¹⁶ See *NSK November 2013*.

The size or precision grade of a bearing does not influence whether the bearing is covered by one of the *Orders*. The *Orders* cover all the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, *etc.*) outlined above with certain limitations. With regard to finished parts, all such parts are included in the scope of the *Orders*. For unfinished parts, such parts are included if they have been heat-treated or if heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by the *Orders* are those that will be subject to heat treatment after importation. The ultimate application of a bearing also does not influence whether the bearing is covered by the *Orders*. Bearings designed for highly specialized applications are not excluded. Any of the subject bearings, regardless of whether they may ultimately be utilized in aircraft, automobiles, or other equipment, are within the scope of the *Orders*.

Reinstatement of Antidumping Duty Orders

Pursuant to the CIT's November 18, 2013, order reinstating the ITC's determination that the revocation of the *Orders* would be likely to lead to the continuation or recurrence of material injury within a reasonably foreseeable time, the Department is reinstating the *Orders* consistent with section 751(d) of the Act. As a result of this reinstatement, the Department will resume discontinued administrative reviews of the *Orders* and intends to initiate new administrative reviews of the *Orders*, if requested.

Furthermore, the Department will instruct U.S. Customs and Border Protection (CBP) to resume the collection of cash deposits for estimated antidumping duties at the rates in effect on July 15, 2011, the date on which the collection of cash deposits was discontinued.¹⁷

¹⁷ See *Revocation Notice*, 76 FR at 41762-63. We instructed CBP to continue the suspension of liquidation of entries pending a "final and conclusive" court decision. *Id.*

Resumption of Administrative Reviews

As a result of the *Revocation Notice*, the Department discontinued all unfinished administrative reviews of the *Orders*.¹⁸ The unfinished administrative reviews covered the periods May 1, 2009, through April 30, 2010, and May 1, 2010, through April 30, 2011.

We are hereby resuming the administrative reviews covering the period May 1, 2009, through April 30, 2010. At the time the *Orders* were revoked, we had issued the preliminary results of review for the administrative reviews covering the period May 1, 2009, through April 30, 2010.¹⁹ Section 751(a)(3)(A) of the Act instructs that “The administering authority shall make ... a final determination under paragraph (1) within 120 days after the date on which the preliminary determination is published.” Accordingly, we intend to issue our final results of reviews for the period May 1, 2009, through April 30, 2010, no later than 120 days after publication of this notice.

We are also hereby resuming the administrative reviews covering the period May 1, 2010 through April 30, 2011. At the time the *Orders* were revoked, we had just initiated the administrative reviews covering the period May 1, 2010, through April 30, 2011.²⁰ Section 751(a)(3)(A) of the Act instructs that “The administering authority shall make a preliminary determination under subparagraph (A), (B), or (C) of paragraph (1) within 245 days after the last day of the month in which occurs the anniversary of the date of publication of the order, finding, or suspension agreement for which the review under paragraph (1) is requested.” Accordingly,

¹⁸ See *id.*, 76 FR at 41762.

¹⁹ See *Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Preliminary Results of Antidumping Administrative and Changed-Circumstances Reviews*, 76 FR 22372 (April 21, 2011). The reviews involving ball bearings and parts thereof from France, Germany, and Italy were completed on August 24, 2011. See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Administrative and Changed Circumstances Reviews*, 76 FR 52937 (August 24, 2011).

²⁰ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 76 FR 37781 (June 28, 2011). The reviews involving ball bearings and parts thereof from France, Germany, and Italy were completed on December 10, 2012. See *Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Administrative Reviews; 2010-2011*, 77 FR 73415 (December 10, 2012).

we intend to issue our preliminary results of reviews for the period May 1, 2010, through April 30, 2011, no later than 245 days after publication of this notice. The deadline for withdrawing requests for review covering the period May 1, 2010 through April 30, 2011 will be 90 days after the date of publication of this notice.

Furthermore, *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification*), applies to these administrative reviews.²¹

Subsequent Administrative Reviews

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Act, may request, in accordance with 19 CFR 351.213, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Subsequent to the *Revocation Notice*, two anniversary months for these orders have passed (May 2012 and May 2013). Therefore, we intend to provide interested parties an opportunity to request administrative reviews of these *Orders*. We intend to provide interested parties with this opportunity simultaneously with the next anniversary month for these *Orders* (May 2014). If any reviews are requested, we intend to conduct the reviews simultaneously.

Advance Notification of Sunset Reviews

Every five years, pursuant to section 751(c) of the Act, the Department and the ITC automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable

²¹ See *Final Modification*, 77 FR at 8113.

subsidy (as the case may be) and of material injury. The third sunset reviews of these orders were scheduled for initiation in August 2011 but were obviated by the *Revocation Notice*. This notice constitutes advance notification for the sunset reviews of these orders which we intend to initiate on January 2, 2014.²²

This notice is published consistent with section 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

December 9, 2013
Date

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²² For information relevant to the Department's conduct of sunset reviews, *see, e.g., Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews*, 78 FR 60252 (October 1, 2013).